

April 5, 2001

S 1078. IMPROVE AIR QUALITY/ELECTRIC UTILITIES. *TO IMPROVE AIR QUALITY IN THE STATE BY REQUIRING REDUCTIONS IN THE EMISSIONS OF CERTAIN POLLUTANTS FROM CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY.* Amends GS 143-215.107 to direct Environmental Management Comm'n to develop and adopt standards to control emissions of oxides of nitrogen and sulfur dioxide from coal-fired generating units, owned or operated by an investor-owned public utility, with capacity to generate 25 or more megawatts of electricity. Sets out standards to be reached in reductions of such pollutants and timetable for meeting standards. Adds new GS 62-133.6 directing Utilities Comm'n to allow subject utilities to pass along costs of meeting such standards to rate payers. Encourages state to work with other states to achieve comparable reductions of emissions from plants in those states.

Intro. by Metcalf and Carter.

Ref. to Agriculture	GS 62, 143
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April 18, 2001

S 1078. IMPROVE AIR QUALITY/ELECTRIC UTILITIES. Intro. 4/5/01. Senate committee substitute makes the following changes to 1st edition. (1) Original bill contained an uncodified direction to the Environmental Management Commission regarding the adoption of standards and plans to implement programs to control emissions of oxides of nitrogen and sulfur dioxide. The committee substitute codifies that provision as new GS 143-215.107D. (2) The committee substitute modifies the bill's new GS 62-133.6, which generally directs the Utilities Commission to allow electric utilities to recover through their rate charges the costs of complying with the standards and plans. The committee substitute directs the commission to hold a hearing before setting the recovery factor that allows the utilities to recover the costs, and it changes the legal reference for calculating the costs that are to be recovered.

June 11, 2002

S 1078. IMPROVE AIR QUALITY/ELECTRIC UTILITIES. Intro. 4/5/01. House committee substitute makes the following changes to 2nd edition. Changes title to *AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY IMPOSING LIMITS ON THE EMISSION OF CERTAIN POLLUTANTS FROM CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY AND TO PROVIDE FOR RECOVERY BY ELECTRIC UTILITIES OF THE COSTS OF ACHIEVING COMPLIANCE WITH THOSE LIMITS.* Rewrites Senate committee substitute which directed Environmental Management Comm'n to adopt standards and plans for implementation of programs to control emissions of oxides of nitrogen and sulfur dioxide and to set environmental compliance expenditure recovery factor.

Emission standards. Sets standards for investor-owned public utility (as defined in GS 62-3) for collective emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2), beginning Jan. 1, 2007. Utilities are classified according to amount of emissions in 2000, and future emission limits are set for each class. Permits utility to determine how it will achieve collective emissions limits. Does not limit authority of Comm'n to impose limitations of emissions of NOx and SO2 from individual coal-fired generation unit owned or operated by investor-owned public utility. Authorizes Governor to enter agreement with investor-owned public utility under which utility voluntarily agrees to transfer to state any emissions allowances acquired pursuant to federal statutes and regulations. Provides that any such agreement is binding and enforceable by specific performance. Amends GS 143-215.108, which requires permit from Comm'n, before person engages in any of specified activity that contravenes or is likely to contravene new standards.

Penalties for violations. Amends GS 143-215.114A(a) to provide that civil penalty of not more than \$10,000 may be assessed against person who violates emissions limitations. Adds new G.S. 143-215.114A(b1), which authorizes Sec'y to assess a civil penalty of not more than \$10,000 per day for violation of emissions limitation. In any year, penalty may be assessed from day limitation was first exceeded through the end of the year. Amends GS 143-215.11B(f) to provide that person who negligently violates limitation is guilty of a Class 2 misdemeanor and may be fined no more than \$15,000 per day of violation, though fine may not exceed \$200,000 for each period of 30 days during which a violation continues. Amends GS 143-215.114B(g) to provide that person who knowingly and willfully violates limitation is guilty of a Class H felony and

may be fined no more than \$100,000 per day of violation, though fine may not exceed \$500,000 for each period of 30 days during which a violation continues. Amends GS 143-215.114B(h)(1) to provide that person who knowingly violates limitation and who knows at that time that he places another person in imminent danger of death or serious injury is guilty of a Class C felony and may be fined not more than \$250,00 per day of violation, though fine may not exceed \$1 million for each period of 30 days during which a violation continues.

Environmental compliance costs recovery. New GS 62-133.6 provides for environmental compliance cost recovery for investor-owned public utilities. Allows utilities to accelerate the cost recovery of estimated environmental compliance costs over a seven-year period, beginning Jan. 1, 2003, and ending Dec. 31, 2009. Defines "costs" and sets amounts to be amortized, although estimated amounts do not define or limit expenditures that may be necessary to comply with limitations. Sets out procedure for Comm'n to review compliance costs. Provides that base rates of utilities will remain unchanged from effective date of act through Dec. 31, 2007. Authorizes Comm'n to allow adjustment to base rates or deferral of costs or revenues, due to one or more condition set out in act. Comm'n may also approve reduction in rate or rates for customer or class of customers during rate freeze if utility so requests. Permits utility to recover actual compliance costs, less accelerated cost recovery, in adjustment of base rates effective on or after Jan. 1, 2008. Directs Sec'y to review annual reports from utilities to determine if utility's proposed actions are adequate to achieve limitations.

Other provisions. States intent of General Assembly that State use all available resources and means to induce other states and entities to achieve NOx and SO2 emissions reductions on comparable schedule. Requires Environmental Management Comm'n to study desirability and feasibility of further reductions in emissions. Requires Div'n of Air Quality to study issues related to monitoring emissions of mercury and emissions of CO2 from coal-fired generating plants and other stationary sources of air pollution. If new emissions standards are set, the costs to reduce emissions of mercury and CO2 are not recoverable under act, except to extent reductions occur as incidental effects of reductions of emissions of NOx and SO2.

Effective date. Act is effective when it becomes law except GS 143-205.107D(i)(agreements between Governor and investor-owned public utility for transfer of emissions allowances) is effective retroactively to June 1, 2002.

June 24, 2002

SL 2002-4 (S 1078). IMPROVE AIR QUALITY/ELECTRIC UTILITIES. AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY IMPOSING LIMITS ON THE EMISSION OF CERTAIN POLLUTANTS FROM CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY AND TO PROVIDE FOR RECOVERY BY ELECTRIC UTILITIES OF THE COSTS OF ACHIEVING COMPLIANCE WITH THOSE LIMITS. Summarized in *Daily Bulletin* 4/5/01, 4/18/01, and 6/11/02. Enacted June 20, 2002. GS 143-215.107D(i), as enacted by Section 1 of this act, is effective retroactively to June 1, 2002. The remainder of this act is effective June 20, 2002.